

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Stephen W. Epley,
Appellant,

v.

Johnson County Board of Review,
Appellee.

ORDER

Docket No. 13-52-0348
Parcel No. 0613304001

On February 7, 2014, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Stephen W. Epley requested the appeal be considered without a hearing and was self-represented. Appellee Johnson County Board of Review was represented by Assistant County Attorney Andy Chappell and submitted evidence in support of its position. The Appeal Board now, having examined the entire record and being fully advised, finds:

Findings of Fact

Stephen W. Epley appeals from the Johnson County Board of Review decision reassessing property owned by Epley Properties, LLC, located at 1 Quail Creek Circle, North Liberty, Iowa. According to the record, the subject property consists of three, one-story, frame office buildings totaling 16,588 square feet of leasable space and built in 1991. The improvements include 27,560 square feet of asphalt paving and yard lighting. They are situated on a 2.667-acre site.

The real estate was classified as commercial on the initial assessment of January 1, 2013, and valued at \$1,969,800, representing \$929,300 in land value and \$1,040,500 in improvement value.

Epley protested to the Board of Review on the ground that the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2). The Board of Review denied the protest.

Epley then appealed to this Board on the same ground. He claimed \$1,321,212 was the actual value and a fair assessment of the property. He reports the gross income of the building increased 2.63% in 2013 over 2012, yet the assessment increased 51.3%. He asserts this will result in real estate taxes costing 23% of the gross revenue for 2014 if the assessment remains the same. According to Epley, the building is fully occupied with two-thirds of the space under a fixed lease. Epley's realtor advised him there is an abundance of office property for rent in North Liberty and that rental rates in the town are not increasing. Additionally, he has had to lower rental rates to keep the buildings rented. In the past several years, he lowered the rent in Building #1 by 13% for a new tenant, Building #2 rent was reduced by 5%, and Building #3 rent was reduced by 30%. Epley avoids the expense of management fees by handling it himself. He also estimates upgrades to the electrical and air conditioning systems, which have been recommended, will cost between \$13,000 and \$15,000.

Epley provided IRS Schedule E forms from 2010 through 2012 to show his revenue and expenses. We note real estate taxes ranging from roughly \$43,400 to \$49,000 and depreciation of \$37,450 to \$56,200 were deducted as expenses to calculate net income during this timeframe. These expenses are typically not included in an income approach to valuation. While Epley provided these figures, he did not actually develop an income approach to valuation or provide any other evidence to support his value opinion.

The Board of Review relies on the Assessor's determination of value, which was based on the income approach. The Assessor developed the income approach using an estimated market rent of \$10 per-square-foot, triple-net, with the tenant paying all the expenses and a capitalization rate of 8.0%. This differs from Epley's figures as actual rent was \$16.35 per-square-foot and he pays all expenses.

The Assessor notes the actual figures represent a 16% increase in Epley's gross income during the past three years. The Assessor's Office also computed the income approach using the actual rent and expenses of Epley's property. Use of the actual figures resulted in a net operating income of \$225,637, which was capitalized at 11.33% for an estimated value of \$1,991,500. The 11.33% overall capitalization rate included a rate of 8% and a tax constant of 3.33%. There is no indication the Assessor considered the sales approach and the Assessor reported the cost approach for 2013 would have been \$2,006,900.

The main difference between the Board of Review's income and expense data and Epley's data is whether actual or market rates were referenced. Epley included expenses not typical in an income approach to value and he did not fully develop the approach. The Assessor fully developed the income approach using both actual and market rates and also calculated a value based on the cost approach. Neither party provided any indication of value based on the sales approach, such as an appraisal, sales of comparable properties, or comprehensive market analysis to support its position.

After reviewing the record, we find the most credible evidence of the subject property's value is derived from the Assessor's income approach and it supports the assessment. However, we recommend the Board of Review verify the measurements of the subject buildings used in its value calculations, as there are discrepancies in the dimensions included in the record.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all

of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin Cnty. Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, residential, commercial, and industrial property is to be assessed at its one hundred percent of its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(a)(2). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). An income approach to value should utilize typical market rents, not actual rents, in determining the property's value. *Merle Hay Mall v. City of Des Moines Bd. of Review*, 654 N.W.2d 419 (Iowa 1997).

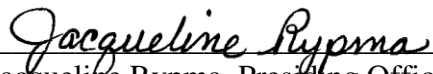
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

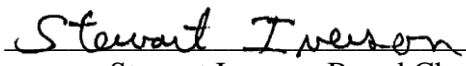
Epley did not provide sufficient evidence to support his claim of over-assessment as of January 1, 2013. He did not submit any evidence of the fair market value of the subject property based on the sales approach, such as recent comparable sales, an appraisal, or comprehensive market analysis. His income figures used expenses not normally permitted in that method. Further, an income approach to value for assessment purposes typically uses market rents, not actual rents. *Merle Hay Mall*, 654 N.W.2d at 423. In contrast, the Board of Review's income approach to value suggests the subject property's assessment is not excessive. As a result, we find Epley failed to meet his burden of showing

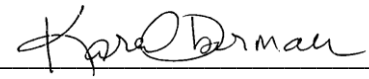
by a preponderance of the evidence that the property was assessed for more than authorized by law as of January 1, 2013.

THE APPEAL BOARD ORDERS the January 1, 2013, assessment of the subject property as set by the Johnson County Board of Review is affirmed.

Dated this 11th day of April 2014.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

Copies to:

Stephen W. Epley
1 Quail Creek Circle
North Liberty, IA 52317
APPELLANT

Andrew B. Chappell
Assistant Johnson County Attorney
417 South Clinton Street
P.O. Box 2450
Iowa City, IA 52244-2450
ATTORNEY FOR APPELLEE